

REMARKS

By this amendment, claims 11 to 23 have been withdrawn from examination without prejudice and have been replaced with new claims 24 to 36. Claims 24 to 36 are pending.

Claims 24 to 27 correspond to former claims 11 to 14.

Claim 28 corresponds to former claim 15 and is amended with traverse to elect one species among the species recited.

Claim 29 corresponds to former claim 22.

Claim 30 corresponds to former claim 16 and is amended to recite that the process is intended to prepare the sweet according to claim 11.

Claims 31 to 35 correspond to former claims 17 to 21.

Claim 36 corresponds to former claim 23.

I- Restriction requirement

The Examiner considers that the subject matter of claims 11 to 15 (group I) and claims 22 and 23 (group III) are distinct and requests a restriction between group I and group III.

In response to this restriction requirement, the Applicant respectfully stresses that new claims 24 to 28 (formerly claims 11 to 15) and new claim 29 (formerly claim 22) concern the same subject matter because claim 29 is directed to a method of treatment using the product claimed in claims 24 to 28. The method claimed is precisely directed to the use of the product of claims 24 to 28 and to no other products.

Thus, a search of the prior art on the subject matter of claims 24 to 28 will also cover the subject matter of claim 29. No supplementary search will hence be necessary.

As a consequence, it is respectfully submitted that restriction between inventions of Groups I or III is no longer necessary.

Reconsideration is hence respectfully requested.

II- Process claims

Claims 30 to 35 concern process claims for the manufacture of the product of claim 24 and claim 36 is a claim of method of treatment using the sweet prepared according the process of claims 30 to 35.

The requirement for restriction between group I and group II is respectfully traversed.

While the claimed product might be made by a process different from that claimed, the claimed process is particularly suited for the manufacture of the claimed product. More important, if Applicants elect the product for a complete search the Examiner ~~will necessarily have to search the process~~ as well for it is intimately related to the sweet of boiled sugar type claimed so much so that the most relevant prior art might be the process that produces the sweet.

Lastly, Applicant respectfully reminds the Examiner of the published PTO guidelines on the treatment of product and process claims (BNA's PCT Vol. 51, page 626), where in a requirement for restriction an applicant elects the product claims which are subsequently allowed, the non elected process claims will be rejoined and allowed.

III- Applicants election

To complete the response, Applicants elect invention of claims 24 to 29 which are related to the same product and method of use and form one single group.

The Applicants further hereby respectfully request claims 30 to 36 to be rejoined and allowed along with the product claims at the time of allowance.

For the foregoing reasons, withdrawal of the restriction requirement is respectfully requested.

IV- Election of species requirement

The Examiner asserts that claim 15 (new claim 28) is generic to a plurality of disclosed patentably distinct species. Applicants elect mannitol with traverse.

The grounds for traverse is that mannitol, maltitol, erythritol, isomalt, anhydrous lactitol, sucrose, anhydrous dextrose, lactose, anhydrous trehalose, mannose, galactose, xylose and cyclodextrins are all sugars which are suitable as crystalline ingredients. They hence structurally belong to the family of sugars and have the same function, i.e. as crystalline ingredients. These species are hence not patentably distinct.

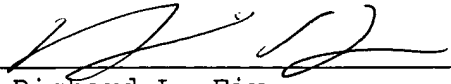
The same reasoning would apply to claim 31 at the time of allowance.

Reconsideration is hence respectfully requested in view of the foregoing.

Favorable consideration and prompt allowance of these claims are respectfully requested.

Respectfully submitted

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